Rules of Engagement & Rules for the Use of Force

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USAF Judge Advocate General School

ROE/RUF Overview

- Rules of Engagement
  - Overview
  - Application of ROE
- Rules for the Use of Force (RUF)
  - ROE or RUF
  - RUF and the Mission
  - Wear of Military Uniforms

ROE Overview

- **ROE are “directives issued by competent military authority which delineate the circumstances and limitations under which United States forces will initiate and/or continue combat engagement with other forces encountered.”**

  -Joint Pub 1-2

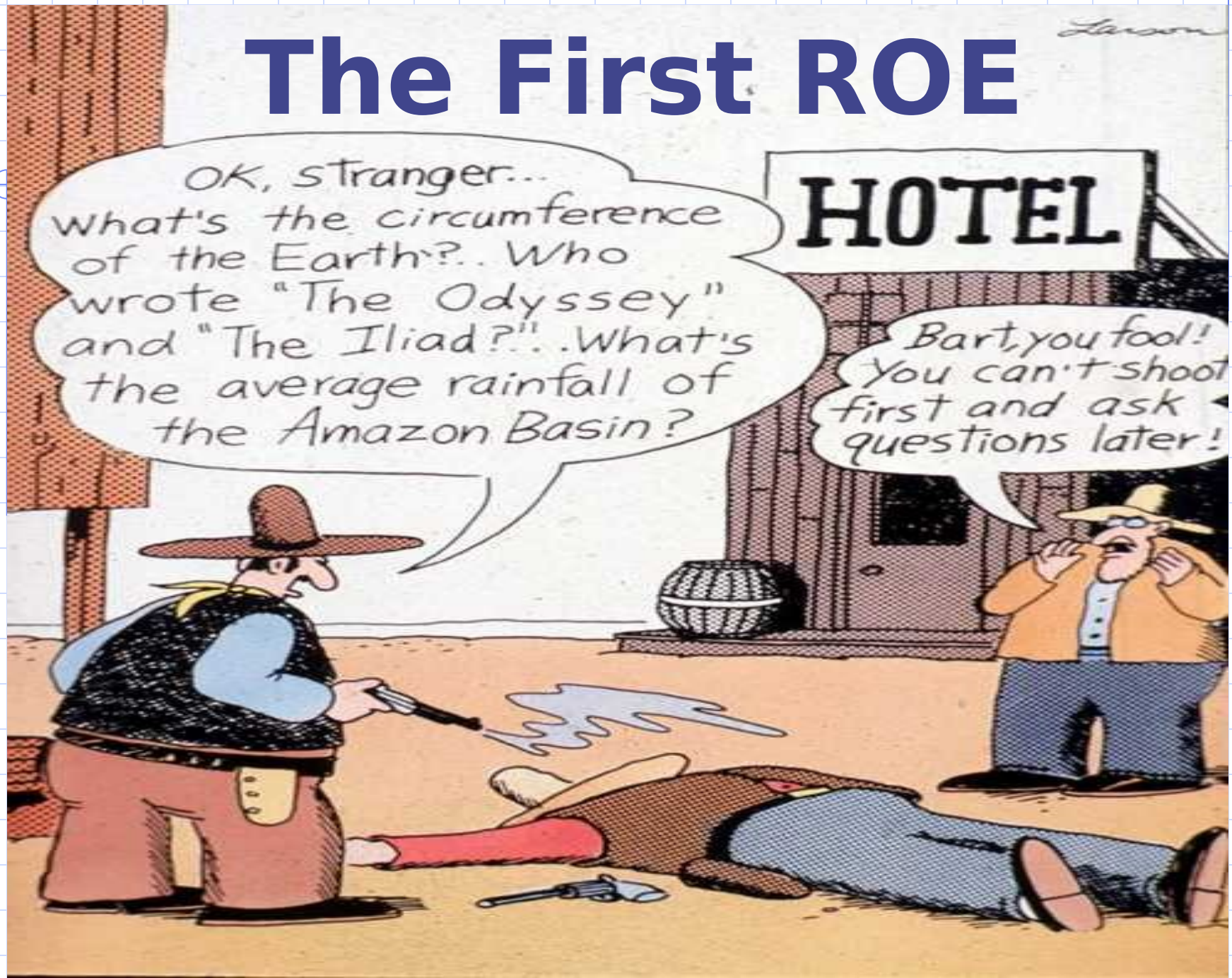
ROE Overview

- **Bottom Line Up Front:**

Who to Shoot
Why to Shoot
When to Shoot
Where to Shoot
Whose Permission

To Control Military Operations

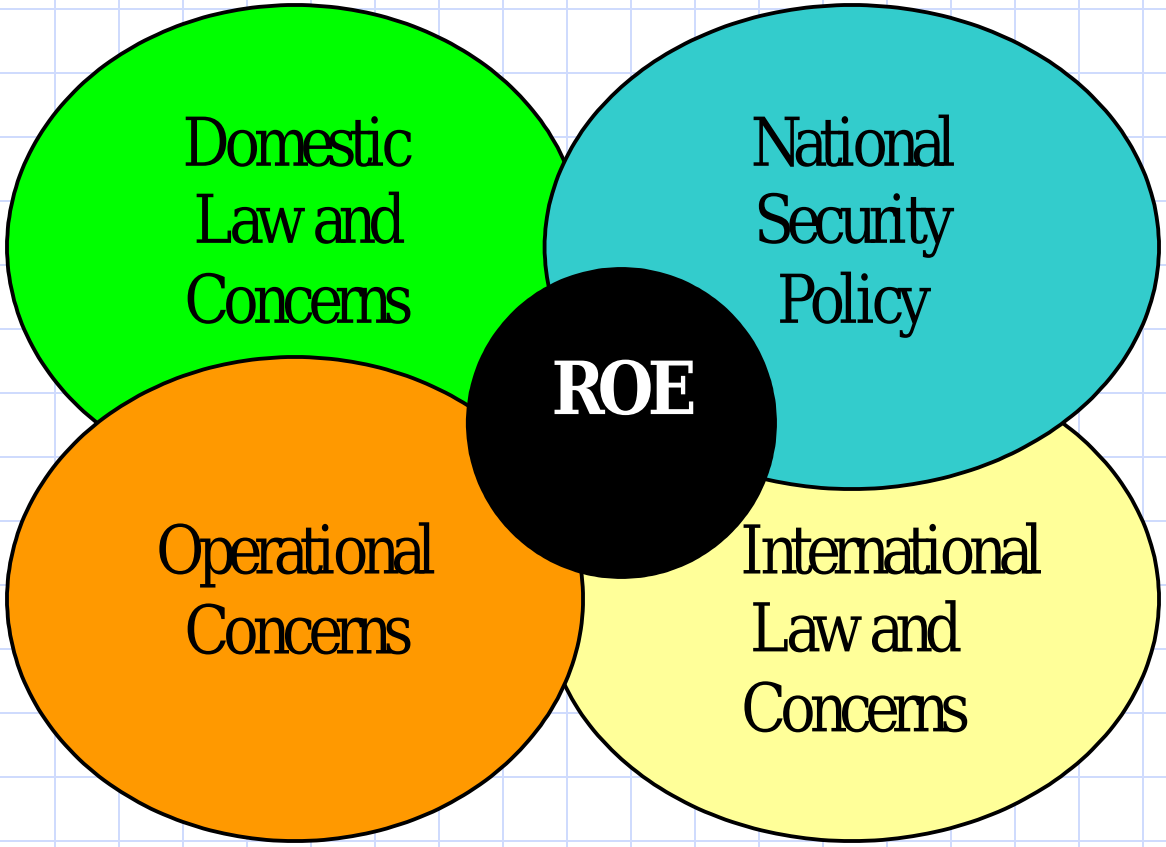
The First ROE


OK, stranger... What's the circumference of the Earth?.. Who wrote "The Odyssey" and "The Iliad?".. What's the average rainfall of the Amazon Basin?
HOTEL
Bart, you fool! You can't shoot first and ask questions later!

ROE Factors

- ✔*Political*
- ✔*Domestic Law*
- ✔*International Law*
- ✔*Operational*

ROE Factors


Domestic Law and Concerns
National Security Policy
ROE
Operational Concerns
International Law and Concerns

Operational (Mission) Influence

Two Categories of ROE

- **In self-defense**
  - **individual**
  - **unit**
  - **national**
  - **collective**
- **Complete a Mission**

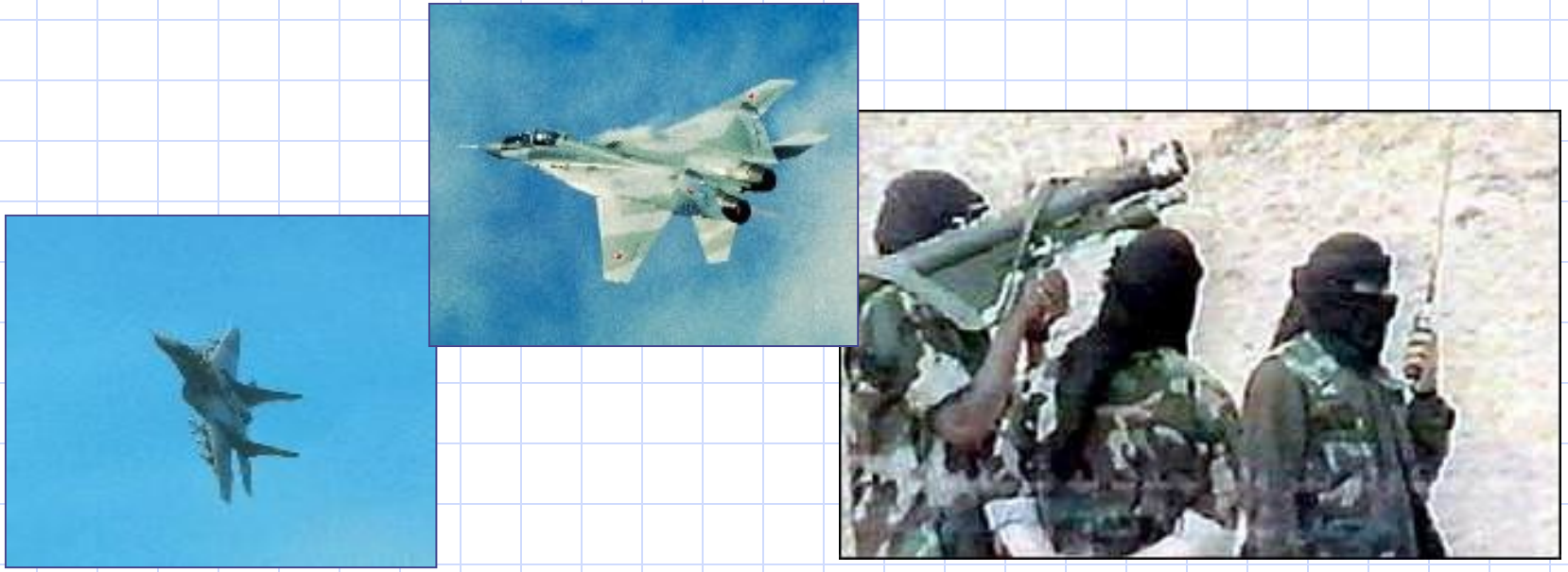
Self Defense: Hostile Act

An attack or other use of force against the United States or other United States forces; or force used directly to preclude or impede the mission and or duties

Hostile Intent

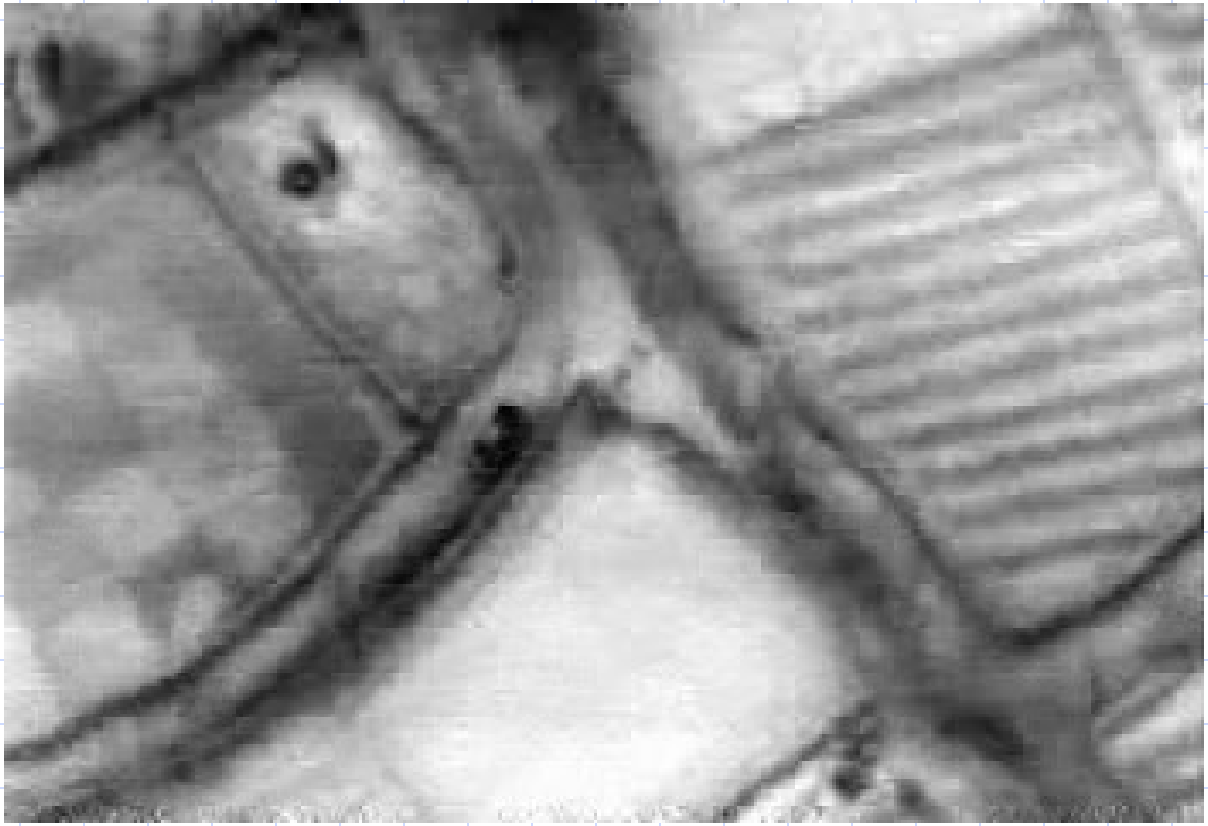
Self Defense: Hostile Intent

The threat of imminent use of force against the United States or US forces.



Mission: Declared Hostile

Declared Hostile



ROE vs. RUF

- Applicability of the SROE
  - Within the U.S. and Territorial Possessions
    - Military attack
  - Outside the United S
    - All military operations
    - Contingencies
    - Terrorist attacks
    - Prolonged conflicts

ROE vs. RUF

- Enclosure I – Domestic Support Operations
  - Domestic support operations conducted by the US military within the territorial jurisdiction of the United States (with the exception of counter-drug operations) are governed by use of force rules contained in other directives or as determined on a case-by-case basis for specific missions.

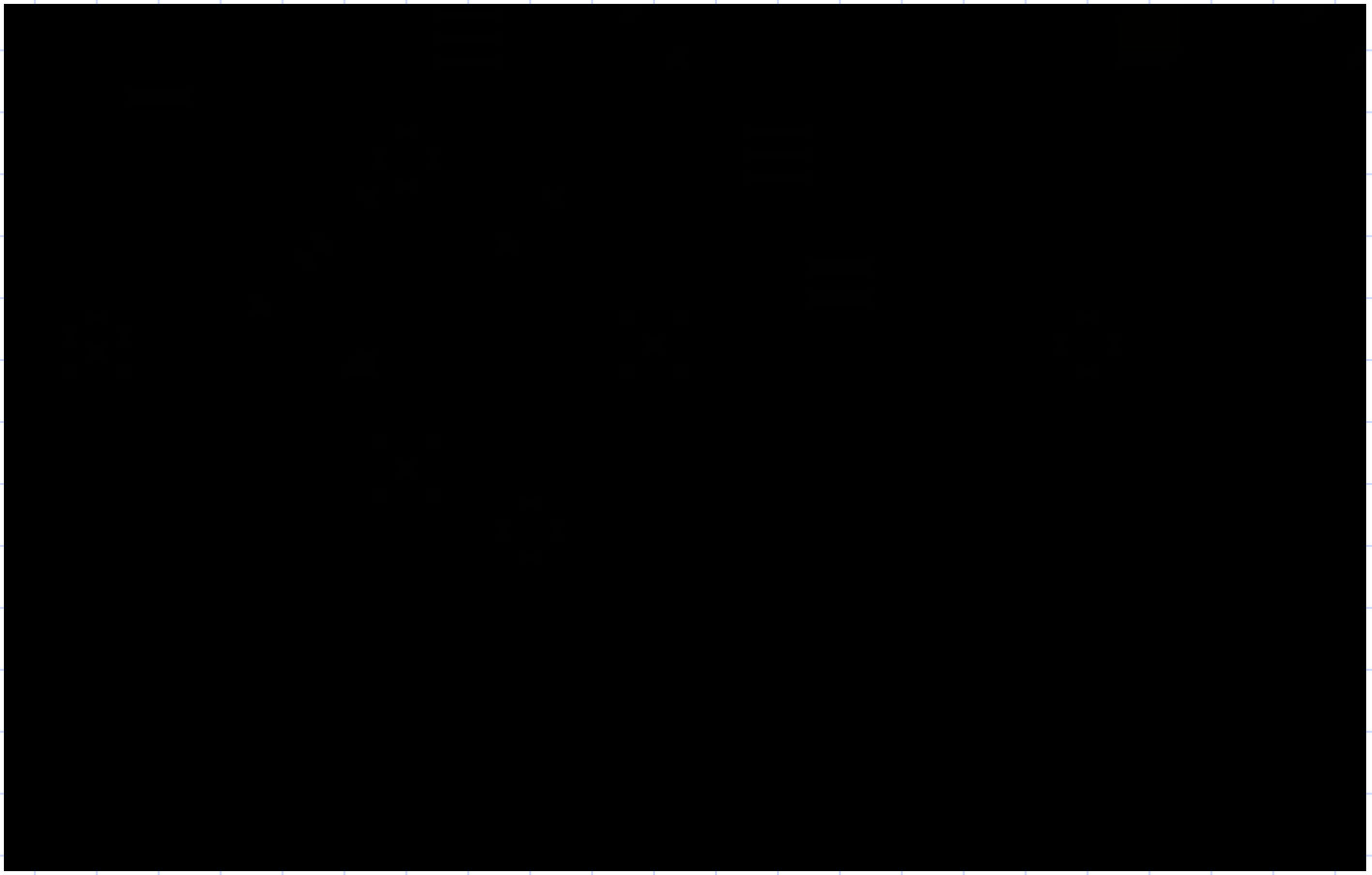
ROE vs. RUF

- Domestic military operations are fundamentally different from those covered by the SROE
- Involvement of U.S. citizens means applicability of domestic law
  - 4th Amendment
- More civilian supervision & control
  - Balance between military needs and protections afforded U.S. citizens

ROE vs. RUF

- OCONUS Military Operations = ROE and RUF
  - SROE Applicable
  - Theater Specific ROE
  - JTF Specific ROE
  - Base Defense – ROE or RUF
- Domestic Operations = ROE & RUF
  - Under Attack – SROE
  - Homeland Defense – ROE
  - Domestic Support Operations - RUF

Sorting this Stuff Out is Like . . .



Use of Force – The Range of Domestic Operations

- Support to Civilian Law Enforcement
- Air Base Defense
- Military Assistance to Civil Disturbances
- Chemical, Biological, Radiological, Nuclear and High-Yield Explosives (CBRNE) support
- Counterdrug Operations
- Disaster Support to Civilian Authorities

Military Support to Civilian Law Enforce

Military Support to Civilian Law Enforcement

- Graham v. Connor, 490 US 386 (1989)
  - "objective reasonableness" standard
  - "split second judgments" by police
- Scott v. Henrich, 39 F.3d 912 (9th Cir. 1994)
  - "less intrusive alternatives to the force used by a police officer need not be considered as a part of the "totality of the circumstances."

Military Support to Civilian Law Enforcement

- DoD Directive 5210.56 – *Use of Deadly Force and the Carrying of Fire Arms by DoD Personnel Engaged in Law Enforcement Duties*
- AFI 31-207 – *Arming and Use of Force by Air Force Personnel*
- AR 190-14 – *Carrying of Firearms and Use of Force for Law Enforcement and Security Duties*

Applicability of LE Use of Force Rules

- DoD personnel carrying firearms while engaged in:
  - Law enforcement or security duties
  - Guarding prisoners
  - Protecting personnel or vital government assets
- Inapplicable when:
  - In combat zone or hostile fire area with ROE
  - OPCON to another federal agency carrying firearms (i.e., DoJ)
  - Civil disturbances

Military Support to Civilian Law Enforcement

- DoD Directive 5210.56
  - Deadly force is justified under the following circumstances:
    - For self-defense and defense of others
    - To prevent theft of national security assets
    - To prevent theft of inherently dangerous assets
    - To prevent serious offenses against persons
    - To arrest, apprehend or prevent the escape of certain criminal suspects – serious offenses
    - To prevent the escape of a prisoner

Military Support to Civilian Law Enforcement

- Warning shots are prohibited
- Shoot to make the person “incapable of continuing the activity or course of behavior prompting the individual to shoot”
- Unholster weapon only when there is a reasonable expectation you will use it
- *Other agency rules may apply also*

Airports & Critical Infrastructure

- Posse Comitatus issues
- State command and control
  - State Status or Title 32
- TAG controlled RUF
  - Differences in rule
  - RUF cards

Air Base Defense

Air Base Defense

- Critical Asset Assurance Program
  - PDD 63 (1998)
  - DoDD 5160.54 (1998)
  - Protection of critical assets and infrastructure, including military installations
  - Each Service is responsible for protecting their own assets

Air Base Defense

The local military measures, both normal and emergency, required to nullify or reduce the effectiveness of enemy attacks on, or sabotage of, a base to ensure that the maximum capacity of its facilities and resources are available to US forces.

AFI 31-301

Use of Force Rules

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Air Base Defense Issues

- Varying FPCON responses?
- Training personnel
  - Firearms qualification trainin
  - RUF training every 12 month

Air Base Defense Issues

- Security Forces Augmentee
  - Medical personnel (broad)
    - Noncombatants under GC I, Art 19 & 24
    - "must naturally abstain from any form of participation – even indirect – in hostile acts."
    - Must be "exclusively engaged" in medical care
    - AFI 41-106, *Medical Readiness Planning & Training*, allows for medical techs to augment SF and then return to protected status
    - JAI position

Air Base Defense Issues

Wear of Military Uniforms

- During International Armed Conflict:
  - GPI, Art 44 (3) – “combatants are obligated to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack.”
  - GPI, Art 44 (7) - “not intended to change the generally accepted practice of States with respect to wearing of the uniform by combatants assigned to the regular, uniformed armed units of a Party to the conflict.”

Air Base Defense Issues

Wear of Military Uniforms

- During Domestic Operations:
  - No international legal constraints
  - Command Policies
    - AMCI 31-320, *Installation Entry Control Program*
    - AETC Supp to AFI 31-207 – *"Security forces personnel and augmentees must be posted in military uniform ONLY."*
  - *Bottom line: Recommended*

Military Assistance to Civil Disturbances

Military Assistance to Civil Disturbances

- 10 USC §§ 331-35 (1998), *Insurrection Act*
- Appendix 1 to Annex C to Garden Plot (ROE)
- Appendix 8 to Annex C to Garden Plot (SPINS)
- DoD Directive 3015.12, *Military Assistance to Civil Authorities*
- National Guard Regulation 500-1 (1996), *Military Support to Civil Authorities*

GARDEN PLOT

- Plan to provide the basis for all preparation, deployment, employment, and redeployment of all designated forces, including National Guard forces called to active federal service, for use in domestic civil disturbance operations as directed by the President

GARDEN PLOT ROE

- Non-deadly force authorized
  - Minimum necessary force
- Use of deadly force is justified only by “extreme necessity”
- Shoot to wound after clear warning
- Use escalation of force methods
- Warning shots not permitted

GARDEN PLOT ROE

- Use of deadly force is justified only by "extreme necessity"
  - Lesser means have been exhausted; and
  - Low risk of harm to innocent persons; and
  - Reason is:
    - Self defense to prevent death/serious bodily injury
    - To prevent crime of death/serious bodily injury
    - To prevent destruction of vital public property
    - To prevent escape of person who is serious threat

GARDEN PLOT ROE

- Riot Control Agents are allowed when properly authorized
  - Release authority likely higher than JTF/CC

Chemical, Biological, Radiological, Nuclear and High-Yield Explosives Support

Chemical, Biological, Radiological, Nuclear and High-Yield Explosives Support

- JCS ConPlan 0500-98, *Military Assistance to Domestic Consequence Management Operations in Response to a Chemical, Biological, Radiological, Nuclear and High-Yield Explosive Situation* (11 Feb 2002)
- Presumes units will deploy unarmed
  - Requires SecDef consultation with Attorney General to authorize arms
- Force protection is the responsibility of local law enforcement

RUF & Counterdrug Operations

RUF & Counterdrug Support Operations

- Statutory Authorization
- SROE, Enclosure H
- CJCSI.02, *Rules on the Use of Force by DoD Personnel Providing Support to Law Enforcement Agencies Conducting Counterdrug Operations in the United States* (2000)

Military Disaster Support to Civil Authorities

Military Disaster Support to Civil Authorities

- Likely to be humanitarian in nature
- US forces will likely be unarmed
- Possible deployment of security forces personnel to assist civilian law enforcement agencies
  - DoD Directive 5210.56 and AFI 31-207 would apply
- NG under state law unless federalized

Head Hurt Yet?

How About Now?

Questions?